

Exemption No. 6792A
Regulatory Docket No. 29156

January 13, 1999

Mr. John Wyatt, Jr.
Chief Pilot
Firelands Museum of Military History
205 Citizens National Bank Building
Norwalk, OH 44857

Dear Mr. Wyatt:

This is in response to your undated letter and November 19, 1998, conversation with Flight Standards Service (AFS-840) petitioning the Federal Aviation Administration (FAA) on behalf of the Firelands Museum of Military History (FMOMH) for an amendment to Exemption No. 6792. That exemption from Sections 91.319, 119.5(g), and 119.25(b) of Title 14, Code of Federal Regulations (14 CFR) permits FMOMH to operate its former military UH-1H helicopters, which are certificated in the experimental category, for the purpose of carrying passengers on local flights for compensation or hire. The amendment you request would revise the following conditions and limitations of that exemption.

You request that the requirement for a second in command (SIC) to hold a helicopter instrument rating be eliminated from condition No. 3(a). You state that FMOMH's helicopters operate under "severe VFR limitations" and that the annual pilot checkrides have been modified to include inadvertent instrument meteorological conditions (IMC) questions and pilot proficiency demonstrations. You add that the helicopters normally are operated by a single pilot.

You also request that the cockpit resource management (CRM) training requirement in condition No. 8 be added to condition No. 4. You indicate that CRM training already is required in FMOMH's training program for pilots in command (PICs) and SICs.

You propose that condition No. 9 be amended to allow FMOMH's oversight function to be transferred from the Columbus, Ohio, Flight Standards District Office (FSDO) to the Cleveland, Ohio, FSDO. You indicate that FMOMH is closer to the Cleveland FSDO than the Columbus FSDO and the Columbus FSDO has requested that the Cleveland FSDO temporarily perform this function.

You also petition to amend condition No. 10 to require FMOMH to have the services of an airframe and powerplant (A&P) mechanic or FAA-certificated repair station personnel available but not present at all stopovers. You indicate that all maintenance on

the aircraft already is conducted by an A&P mechanic or appropriately rated repair station personnel and that the FMOMH maintenance program requires its aircraft to be grounded if those persons are not available.

Additionally, you request to modify condition No. 13(c) and (d) to allow flight operations when flight visibility is not less than 3 statute miles and a ceiling of not less than 1,500 feet above ground level. You indicate that FMOMH helicopters operate at relatively slow airspeeds, 3 to 5 miles from the point of departure.

You also request to delete condition No. 13(f), which requires that all FMOMH operations be conducted at airports where a firestation or firefighting services are available. You contend that to generate operating funds, FMOMH often operates at off-airport sites where these services may not be available. You indicate that the aircraft is equipped with crashworthy fuel tanks, carries low flashpoint fuel, and has a safety record with few post-crash fires.

Finally, you propose to amend condition No. 14 to allow persons other than FMOMH flightcrews access to the front seats of the aircraft during passenger flight operations. You state that the helicopter is a single-pilot aircraft and that the aircraft is operated with a trained crewchief seated in the rear of the aircraft to assist passengers. You indicate that if condition No. 14 is modified, as requested, FMOMH will be able to raise additional funds.

The FAA has determined that good cause exists for not publishing a summary of the petition in the Federal Register because any delay in acting on this petition would be detrimental to FMOMH.

Under the authority of 49 U.S.C. Section 44701(e), the FAA may amend an exemption from the requirements of a regulation if it finds that such an amendment is in the public interest. However, the petitioner has the burden of showing that amending its grant of exemption is justified and in the public interest.

The FAA issued Exemption No. 6792 to FMOMH after a very thorough evaluation of the petitioner's flight operations. Exemption No. 6792 is based on a grant of exemption that applies to petitioners with similar situations that have requested relief from Sections 91.319, 119.5(g), and 119.25(b). Those grants of exemption essentially are identical and purposely were drafted to ensure equity among all applicable petitioners and to ensure the highest level of safety possible. The FAA determined that issuing nearly identical exemptions from Sections 91.319, 119.5(g), and 119.25(b) was necessary to prevent any exemption holder from having an unfair advantage over another exemption holder. Additionally, the FAA established very high qualification standards and operating requirements for

petitioners seeking this type of relief to address concerns regarding passenger flights in aircraft certificated in the experimental or limited category.

In response to your request to delete references in condition No. 3(a) to the requirement that each of its SICs hold a helicopter instrument rating, the FAA has determined that FMOMH has not offered an equivalent or an alternative means of qualification. Furthermore, the FAA has established very high standards of qualification for flight crewmembers who operate under this type of exemption. The FAA finds that by establishing high standards of qualification for pilot personnel, it will alleviate some concerns about passenger flights in aircraft certificated in the experimental category. Therefore, the FAA denies this specific request.

Regarding your request to add CRM requirements to condition No. 4, the FAA finds that Exemption No. 6792 does not prevent FMOMH from providing additional CRM training in its qualification and recurrent ground and flight training programs. FMOMH may provide this additional training to its pilot personnel; therefore, the FAA finds no reason to revise condition No. 4 to include this specific request.

In response to your request to amend condition No. 9, the FAA agrees with your argument, and condition No. 9 will be revised to allow FMOMH's UH-1H qualification and recurrent ground and flight training programs listed in condition Nos. 4, 5, and 6 to be made available to the Cleveland FSDO, Cleveland Hopkins International Airport, Federal Facilities Building, Room 131, Cleveland, Ohio 44135, upon request.

Regarding your request to amend condition No. 10, the FAA finds that the very purpose for requiring an FAA-certificated A&P mechanic or an appropriately rated repair station to be available at all stopovers is to have qualified maintenance personnel immediately available to inspect and repair experimental airworthiness aircraft in the interest of safety. Therefore, the FAA denies this specific request.

In response to your request to amend condition No. 13(c), (d), and (f), the FAA notes that it has established very high standards for operating requirements under this type of exemption. The FAA finds that by establishing high standards for operating requirements, it will address any concerns about passenger flights in aircraft certificated in the experimental category. The FAA has determined that FMOMH has not offered an equivalent or an alternative means of operating requirements. Therefore, the FAA denies this specific request.

Finally, regarding your request to amend condition No. 14, the FAA notes that condition No. 14 was implemented to prevent passengers from occupying a pilot crewmember station during flight operations. In the interest of safety, the FAA determined

that a passenger wanting to sit in a pilot crewmember station should do so only on the ground before the flight operation commences. Therefore, the FAA denies this specific request.

The FAA has determined that the justification for the issuance of Exemption No. 6792 remains valid with respect to this exemption.

In consideration of the foregoing, I find that a partial grant of exemption is in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. Sections 40113 and 44701, delegated to me by the Administrator (14 CFR Section 11.53), Exemption No. 6792 is hereby amended by revising condition No. 9 as follows:

9. FMOMH's UH-1H qualification and recurrent ground and flight training programs listed in condition Nos. 4, 5, and 6 must be made available to the Cleveland Flight Standards District Office, Cleveland Hopkins International Airport, Federal Facilities Building, Room 131, Cleveland, Ohio 44135, upon request.

All other conditions and limitations of Exemption No. 6792 remain the same. This letter shall be attached to, and is a part of, Exemption No. 6792.

Sincerely,

/s/ Ava L. Mims
Acting Director, Flight Standards Service